

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

NATALIE SOTO,

Plaintiff,

Civil Action

File No.: 1:24-cv-02911-SDG

v.

WENDELL HOLMES, JR.,

Defendant.

**PLAINTIFF'S MOTION TO STRIKE DEFENDANT'S UNAUTHORIZED
SURREPLY [DOC. 55]**

COMES NOW Plaintiff Natalie Soto and, pursuant to Local Rule 7.1(C) of the Northern District of Georgia, respectfully moves to strike Defendant's April 21, 2025 filing [Doc. 55], which functions as an unauthorized surreply to Plaintiff's Motion for Summary Judgment. In support thereof, Plaintiff states as follows:

I. BACKGROUND

Plaintiff filed her Motion for Summary Judgment on April 10, 2025. [Doc. 42]. Defendant filed a response on April 14, 2025. [Doc. 45]. Plaintiff then timely filed a reply brief on April 15, 2025. [Doc. 51]. On April 21, 2025, Defendant filed a second response styled as "Defendant's Response in Opposition

to Plaintiff's Motion for Summary Judgment" [Doc. 55] without seeking leave of court. This filing—submitted after Plaintiff's reply brief—functions as a surreply and should be stricken.

II. ARGUMENT AND CITATION OF AUTHORITY

A. Surreplies Are Not Authorized by the Federal Rules or Local Rules

Neither the Federal Rules of Civil Procedure nor the Local Rules of this Court authorize the filing of surreplies. *See Byrom v. Delta Family Care—Disability and Survivorship Plan*, 343 F. Supp. 2d 1163, 1188 (N.D. Ga. 2004). Although the Court may, in its discretion, permit a surreply, "this discretion should be exercised in favor of allowing a surreply only where a valid reason for such additional briefing exists," such as when a movant raises new arguments for the first time in reply. *See Hammett v. Am. Bankers Ins. Co.*, 203 F.R.D. 690, 695 n.1 (S.D. Fla. 2001).

Here, Plaintiff's reply brief [Doc. 51] raised no new arguments. It directly responded to Defendant's April 14 opposition and emphasized his own prior admission of disclosure under 15 U.S.C. § 6851. Defendant's subsequent filing introduces new factual claims and rhetorical allegations—none of which rebut the statutory elements of Plaintiff's claim and none of which are proper grounds for a surreply.

B. Courts Routinely Strike Unauthorized Surreplies

The Northern District of Georgia routinely strikes unauthorized surreplies.

In Khattab v. Morehouse Sch. of Med., No. 1:07-CV-196-RWS-LTW, 2009 WL 1513172, at *2 (N.D. Ga. May 28, 2009), the court affirmed the striking of a pro se litigant's surreply and additional filings as improper and unjustified under Local Rules 7.1 and 56.1.

Allowing surreplies without strict control "would put the court in the position of refereeing an endless volley of briefs." Garrison v. Northeast Georgia Med. Ctr., Inc., 66 F. Supp. 2d 1336, 1340 (N.D. Ga. 1999) (denying request for leave to file surreply). That caution applies squarely here.

III. CONCLUSION

Defendant's April 21, 2025 filing [Doc. 55] is an unauthorized surreply, filed without leave, in violation of Local Rule 7.1(C) and in contravention of clear precedent in this District. The brief is improper, unhelpful to resolution of the motion, and procedurally prejudicial. Plaintiff respectfully requests that the Court STRIKE [Doc. 55] in its entirety.

Respectfully submitted, this 24th day of April, 2024.

/s/ Joseph W. Weeks

Joseph W. Weeks
Attorney for Plaintiff
Georgia Bar No. 912341

McNALLY WEEKS
125 Clairemont Ave.
Suite 450
Decatur, GA 30030
404-373-3131 (phone)
404-373-7286 (facsimile)

LR 7.1(D) NDGa. CERTIFICATE

I, Joseph W. Weeks, hereby certify that the foregoing PLAINTIFF'S MOTION TO STRIKE DEFENDANT'S UNAUTHORIZED SURREPLY [DOC. 55] has been prepared with one of the font and point selections approved by the Court in LR 5.1, NDGa.

This 24th day of April, 2025.

McNally Weeks

/s/ Joseph W. Weeks
Joseph W. Weeks

CERTIFICATE OF SERVICE

The undersigned counsel of record hereby certifies that true and correct copies of the within and foregoing PLAINTIFF'S MOTION TO STRIKE DEFENDANT'S UNAUTHORIZED SURREPLY [DOC. 55] have been served upon the Defendant via email and/or First Class Mail at Defendant's last known mailing address and/or email address, as follows:

Wendell Holmes, Jr.
5934 Rosie Lane, SE
Mableton, GA 30126
wendellholmesjr@gmail.com

This 24th day of April, 2024.

/s/ Joseph W. Weeks
Joseph W. Weeks
Attorney for Plaintiff
Georgia Bar No. 912341

McNALLY WEEKS
125 Clairemont Ave., Suite 450
Decatur, GA 30030-2560
jweeks@mcnallyweeks.com (email)
404-373-3131 (phone)
404-373-7286 (facsimile)